

MATTER OF SALVIEJO
In Deportation Proceedings
A-19173484

Decided by Board April 17, 1970

Application for a waiver of the visa requirements under section 211(b) of the Immigration and Nationality Act, was properly denied since respondent, a native and citizen of the Philippines, who lived from August 1947 until November 1968 in Guam where he held various jobs as a laborer, sales clerk, stock clerk, storekeeper and gas station attendant, is classifiable as a contract laborer and not entitled to the presumption of lawful permanent residence under 8 CFR 4.2(j) [now 8 CFR 101.1(i)]; and further, since his actual place of residence from the time he left Guam in 1958 until he entered the United States in 1968 (with the exception of 11 months spent in Viet Nam) was in the Philippines, where he acquired a home and farm which he still owns, such residence was not temporary so as to constitute at the time of his entry to the United States in 1968 a return from a temporary visit abroad.

CHARGE:

Order: Act of 1952—Section 241(a) (2) [8 U.S.C. 1251(a) (2)]—Visitor—remained longer.

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The case comes forward on appeal from the order of the special inquiry officer denying respondent's application pursuant to section 211(b) of the Immigration and Nationality Act¹ for a

¹ Section 211(b) of the Act, 8 U.S.C. 1181(b) provides:

Notwithstanding the provisions of section 212(a) (20) of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section